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FM USMISSION USUN NEW YORK
TO RUEHC/SECSTATE WASHDC IMMEDIATE 3603
INFO RUEHKK/ARAB ISRAELI COLLECTIVE IMMEDIATE
RUEHZL/EUROPEAN POLITICAL COLLECTIVE IMMEDIATE
RUEHGG/UN SECURITY COUNCIL COLLECTIVE IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 03 USUN NEW YORK 000071

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E.O. 12958: DECL: 01/23/2018
TAGS: [PREL](#) [PTER](#) [UNSC](#) [SY](#) [LE](#)
SUBJECT: LEBANON TRIBUNAL: DIFFERENCES AMONG PRINCIPAL
DONORS REMAIN ON ISSUES AFFECTING ESTABLISHMENT OF TRIBUNAL

REF: A. STATE 1070
[1](#)B. USUN 1185 (2007)
[1](#)C. USUN 1184 (2007)
[1](#)D. USUN 1150 (2007)
[1](#)E. USUN 1141 (2007)

Classified By: Amb. Alejandro D. Wolff, for reasons 1.4(b) and (d).

[1](#)1. (C) SUMMARY: Office of Legal Affairs (OLA) Under
Secretary-General Michel convened major donors to the Special

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Tribunal for Lebanon (U.S., UK, France, Germany, the Netherlands, and Lebanon) to discuss the steps that need to be taken in order to establish a Management Committee to oversee the Tribunal and to operationalize the Tribunal as soon as possible. Member States remained divided over the issue of decision-making by Management Committee members (consensus vs. voting), the Committee's location (New York vs. The Hague), how and whether to compensate the Lebanese judges for the risks associated with their service on the Tribunal, and the timing of relocating those judges outside Lebanon so that they and other judges selected could begin their work. Citing resolution 1757's mandate for the Secretary-General to take the steps necessary to establish

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the Tribunal in a "timely manner," Michel urged participants to resolve outstanding issues and proposed a January 23 meeting (subsequently postponed) to enable the main donors to establish the Management Committee. END SUMMARY.

[1](#)2. (C) OLA U/SYG Michel opened the meeting by identifying four issues for donor state consideration: (1) the status of fundraising efforts; (2) the establishment of the Management Committee; (3) security of judges and other key Tribunal personnel; and (4) relocation of Lebanese judges. Michel reported that the UN already had received \$22.4 million and written pledges of \$2.3 million for the Tribunal's first year. In addition, oral commitments have been made by the U.S. (\$2 million in addition to the \$5 million already sent), the UK (\$1 million), Germany (\$1 million), Pakistan (\$1 million), Italy (\$250,000), and Belgium (\$250,000). France has made a pledge to provide \$2.2 million in the second year and \$2.2 million in the third year. Separately, Saudi Arabia, Kuwait and the UAE have expressed interest in contributing to the Tribunal, as has Denmark, although none of these states have specified the amounts they intend to provide. (Note: Since then, OLA has informed USUN that Austria has contributed \$120,000. End Note.)

[1](#)3. (C) Michel then summarized the UN's latest efforts to set up the Tribunal. The SYG selected the judges in December but, for security reasons, has not announced their names publicly or appointed them officially. (The Lebanese judges selected have not been informed.) Michel said OLA intends to

convene an informal meeting of the judges in early March - perhaps the week of March 3 - so they could select a Tribunal president. Judges also could begin preparing rules of procedure and evidence, and the non-Lebanese judges could familiarize themselves with Lebanese criminal law, which will serve as the basis for their work.

¶4. (C) The UN also has prepared a short-list of candidates for Registrar and a selections panel is interviewing and assessing candidates. Michel invited one or two members of the soon-to-be-established Management Committee to participate in that process. The Registrar, whom the Secretary-General will appoint at the Assistant

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Secretary-General level, will be the only UN staff member on

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the Tribunal, and will be subject to all UN rules and regulations. Michel also said that the UN has hired an expert to oversee outreach and communications for the Tribunal.

DIFFERENCES REMAIN ON
PROPOSED MANAGEMENT
COMMITTEE DECISION-MAKING
AND LOCATION

¶5. (C) Michel urged participants to reach an acceptable compromise as soon as possible on the draft terms of reference for the Management Committee, noting that the UN needs policy guidance from the Committee to proceed. The only outstanding issue is whether the Management Committee should make decisions by consensus or voting. Once the terms of reference are agreed, the Management Committee can be established, and a chairman chosen. Committee members then can begin reviewing and approving a Tribunal budget, and the SYG can begin preparing a donors' conference. (Separately, the donors have not yet agreed whether the Management Committee will meet in New York or The Hague. The French Mission, which has been holding out for The Hague, told us

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privately they thought this issue could be resolved in favor of New York, with some day-to-day liaison role for our Missions in The Hague.)

SECURITY AND RELOCATION
OF JUDGES

¶6. (C) Acknowledging that the judges' identities will become public as soon as the UN convenes the first meeting of the judges, Michel reviewed the UN's planning to protect the security of the Lebanese judges. The UN Department of Safety and Security (DSS) has been consulting with the Government of Lebanon to develop contingency plans for relocating the Lebanese judges, he said, and the Dutch government will provide 24-hour security to the judges and their families once they arrive in the Netherlands. (Note: OLA consultant Robin Vincent recently told USUN that the Dutch estimate their security-related costs will be more than \$20 million per year. End Note.)

¶7. (C) Michel then sought donors' views on how to compensate the Lebanese judges once they are relocated but before they start working full-time for the Tribunal. Michel said the UN had estimated that it would cost roughly \$50,000 per month to provide all four Lebanese judges with a daily subsistence allowance (DSA) wherever they are relocated. If family members are included, the cost could rise to \$100,000 per month. Dutch PermRep Majoor said the donors might as an alternative consider whether to begin paying the judges' salaries once they are relocated.

¶8. (C) German Deputy PermRep Ney asked if the UN could delay the judges' informal meeting, at least until the UN Independent Investigation Commission (UNIIIC) was closer to identifying possible indictees and the Tribunal had work to do. Ney stressed the significant costs associated with relocating the judges well before they might begin working and noted the personal hardship that relocation would impose on the judges. In response, Michel stressed that resolution 1757 mandates the SYG "to undertake the steps and measures necessary to establish the Special Tribunal in a timely manner." To send a political message in the region, some Council members believe the SYG should declare the Tribunal functioning very soon, he said. Others say the Tribunal should begin functioning only after UNIIIC has completed its work. Michel also said that UNIIIC Commissioner Bellemare had been unwilling to share specific information concerning when UNIIIC might be able to issue indictments. Michel did, however, announce that UNIIIC Commissioner Bellemare has three containers of evidence from the UNIIIC investigation that he wants to transfer out of Lebanon for safekeeping.

¶9. (C) Michel also asked for donors' guidance on Lebanon's proposal that the Tribunal should pay the Lebanese judges additional compensation for the risks associated with serving on the Tribunal. Reiterating points he first raised during a meeting of principal donors on December 18 (Ref B), Lebanese PR Salam the Lebanese judges were entitled to receive a "risk allowance" or "danger pay" to compensate them for the risks they would incur, much as diplomats assigned to work in war zones receive additional compensation. Salam proposed an allowance of approximately \$10,000 per month per judge and cautioned that the Lebanese judges would not serve unless their concerns are addressed appropriately. (Note: The French Mission advised USUN that they had heard that the \$10,000 per month figure reflects what the Lebanese Government is currently paying the judges per month, as well as the additional monthly cost-of-living adjustment the Lebanese Government pays its diplomats in The Hague. End note.)

¶10. (C) Salam said he was not seeking preferential treatment for Lebanese judges. Any judge or senior Tribunal official who faced similar security threats should be entitled to receive a special allowance. Over three years, roughly \$1.5 million would be needed to address the unique security concerns of the Lebanese, he said, but that cost could rise if the other judges are covered as well.

¶11. (C) Ambassador Wallace stressed the paramount importance of protecting judges and other Tribunal personnel, but said the United States could not support additional direct payments to judges. He then suggested the UN Department of Safety and Security and the Dutch Government could assess the security concerns and needs of each judge and determine what additional steps, if any, might be needed to protect them. Wallace also questioned whether the UNIIIC staff in Beirut received danger pay, noting that it might appear unusual if individuals serving in Beirut were receiving far less in

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danger or hazard pay than judges stationed in The Hague. (Note: USUN subsequently learned from Vincent that UNIIIC investigators stationed in Beirut receive \$1,300 in danger pay per month. End Note.)

¶12. (C) Dutch PermRep Majoor said all judges, whether serving on the Special Tribunal or other international tribunals, needed to have the same salary. Both French Deputy PermRep La Croix and UK Mission Legal Adviser Adams expressed willingness in principle to accept the proposed risk-based allowance, although Adams clarified the need for objective criteria for determining eligibility. In concluding the discussion, Michel asked donors to develop a coordinated position on Lebanon's proposal.

COMPENSATION FOR JUDGES

¶13. (C) Participants also discussed how and when the judges would start receiving salaries from the Tribunal, and Michel said the Management Committee, once established, would need to make decisions on the issue. OLA consultant Vincent noted that initially, only the Tribunal President and a pre-trial judge would be needed full-time. Under the draft terms of conditions for judges' employment, to be approved by the Management Committee, the judges cannot accept other positions while they are employed by the Tribunal, but because the appeals judges would not assume their duties for some time, they could continue their outside activities for the moment, Vincent said. The Lebanese judges, for example, could continue to receive their salaries from the Lebanese government until they begin working full-time for the Tribunal, he suggested.

SYG'S NEXT REPORT
TO THE UNSC

¶14. (C) Michel then sought participants' views on when the SYG should report next to the Council on preparations to establish the Tribunal, as paragraph 3 of UNSCR 1757 requires. Michel suggested that February 14, the third anniversary of the Hariri assassination, might be an appropriate date for the SYG to transmit the report, and said the SYG is preparing to submit a report by note later than the end of February.

NEXT DONORS'
MEETING

¶15. (U) Michel proposed to convene another meeting on January 23 (subsequently postponed), at which time the terms of reference for the Management Committee could be finalized and adopted and a Committee chairman chosen. Management Committee members then could begin taking decisions on refurbishment of the building offered by the Dutch Government to serve as the location for the Tribunal, and on finalizing conditions of service for the judges and other Tribunal staff.
KHALILZAD